

The County of Sonoma (State of California) objects to the Petition of the CTIA to establish an unreasonable "shot clock" for timing of action on applications for new wireless telecommunications facilities.

The CTIA's own application demonstrates the lack of need for such action by the Commission. As the CTIA petition notes, 77 percent of the applications have been pending for less than a year, and 95 percent of applications are acted on within three years. In the 11 years since the Telecommunications Act was passed, approximately 190,636 new cell sites have been approved, a rate of 17,330 per year, or 47 per day, across the United States. Given the potential physical and environmental impacts of some facilities, this is not unreasonable. The fact that approximately 85 percent of the entire United States population, including seniors and children, have a cell phone today testifies to the fact that local governments have been quite reasonable in providing approvals for the wireless infrastructure, and rapid in the deployment. The CTIA cites some extreme examples, and there are indeed jurisdictions that have unnecessarily dragged their feet.

But rather than taking the CTIA's word for the "problem," and rather than acting solely on the basis of the self-serving information in the petition, the Commission should first investigate the allegedly delayed applications and determine whether the local agency or the wireless company is the source of the delay. For example, in our department, staff has been working on a co-location application where the companies have submitted incomplete or contradictory information. Wireless companies frequently use consultants, and they change consulting firms, so that the second consulting firm does not receive the information from the first firm. This has happened in our jurisdiction, resulting in processing delays. We have applications for new facilities where we have encouraged the applicant to co-locate on recently approved facilities (that had a condition requiring acceptance of potential co-locationers); but we have never heard back from the applicant about the suggestion. So, these sites are probably on that list of 3,300, but it is the applicant who has been dragging their feet. Getting companies to cooperate with each other is a problem for agencies, and I suggest that lack of cooperation may be a greater source of problems for the industry. If the companies drag their feet on providing required information for an application, such as the number of antennas and their placement, is it the local agency's fault for holding up an approval? If an application form states the company is applying for 12 antennas, but their zoning drawings show six ant

ennas, and an agency approves the application for six antennas, is the company entitled to go to court for the 12 antennas?

In the State of California, the Permit Streamlining Act governs the timing of the processing of all planning applications, including wireless applications. Carriers in this state have a remedy that avoids the need for Federal action. Nevertheless, the state Legislature in 2006 passed a law that expedites co-location; when the full project is considered and undergoes environmental review, only a building permit is required for the antennas that are considered in that environmental review.

In the State of California, all projects are subject to the California Environmental Quality Act. Some projects can be found to be exempt from environmental review pursuant to statutory exceptions or regulatory provisions. But some sites are of such a magnitude that they have potentially significant impacts, and they require environmental review. These are subject to timing provisions, but the CTIA proposal would unreasonably interfere with local agencies obligations under State law. Local agencies along the coast have extra obligations in terms of assuring that the projects conform to the Coastal Act, which implements the federal Coastal Zone Management Act. The CTIA petition must be considered in light of these obligations also.

The CTIA's suggested solution of a means to restore "balance" is in itself unreasonable. If the Commission grants the proposed request, the "balance" will tilt in favor of the industry and away from the form of government that is closest to the citizens and taxpayers who must bear the burden of the potentially heavy-handed and ham-fisted approach of the Petition. If the Commission does decide to pursue the "shot clock" remedy to this so-called problem, it should establish timelines that are reasonable and within the capability of agencies to perform. Bear in mind however, that this will mean giving telecommunication companies priority over worthy projects to provide affordable housing, flood protection, etc. Should the FCC honor the CTIA petition, it should also provide local agencies the funding to carry out its new mandate.

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Hardy

Planner

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